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PATENT COOPERATION TREATY

From the
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

To:
SYLVIS A .AYLER
MERCK & CO., INC.
126 EAST LINCOLN AVENUE
RAHWAY, NJ 07065-0907

PCT

WRITTEN OPINION

(PCT Rule 66)

Date of Mailing *(day/month/year)*	26 OCT 2004
Applicant's or agent's file reference 21260Y PCT	REPLY DUE within 2 months/days from the above date of mailing

International application No.	International filing date *(day/month/year)*	Priority date *(day/month/year)*
PCT/US03/34959	04 November 2003 (04.11.2003)	08 November 2002 (08.11.2002)

International Patent Classification (IPC) or both national classification and IPC

IPC(7): C07D 231/56 and US Cl.: 548/362.5

Applicant

MERCK & CO., INC.

1. This written opinion is the first (first, etc,) drawn by this International Preliminary Examining Authority.

2. This opinion contains indications relating to the following items:

- I ☒ Basis of the opinion
- II ☐ Priority
- III ☒ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV ☐ Lack of unity of invention
- V ☒ Reasoned statement under Rule 66.2 (a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☐ Certain defects in the international application
- VIII ☐ Certain observations on the international application

3. The applicant is hereby **invited to reply** to this opinion.

When? See the time limit indicated above. ~~The applicant may, before the expiration of that time limit, request this Authority to grant an extension. See rule 66.2(d).~~

How? By submitting a written reply, accompanied, where appropriate, by amendments, according to Rule 66.3. For the form and the language of the amendments, see Rules 66.8 and 66.9.

Also For an additional opportunity to submit amendments, see Rule 66.4.
For the examiner's obligation to consider amendments and/or arguments, see Rule 66.4 *bis*.
For an informal communication with the examiner, see Rule 66.6

If no reply is filed, the international preliminary examination report will be established on the basis of this opinion.

4. The final date by which the international preliminary examination report must be established according to Rule 69.2 is: 08 March 2005 (08.03.2005).

Name and mailing address of the IPEA/US
Mail Stop PCT, Attn: IPEA/US
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
Facsimile No. (703)305-3230

Authorized officer
Rebecca L Anderson
Telephone No. (703) 308-1235

WRITTEN OPINION

International application No.
PCT/US03/34959

I. Basis of the opinion

1. With regard to the **elements** of the international application:*

☒ the international application as originally filed

☒ the description:
pages 1-69, as originally filed
pages NONE, filed with the demand
pages NONE, filed with the letter of _____.

☒ the claims:
pages 70-79, as originally filed
pages NONE, as amended (together with any statement) under Article 19
pages NONE, filed with the demand
pages NONE, filed with the letter of _____.

☐ the drawings:
pages NONE, as originally filed
pages NONE, filed with the demand
pages NONE, filed with the letter of _____.

☐ the sequence listing part of the description:
pages NONE, as originally filed
pages NONE, filed with the demand
pages NONE, filed with the letter of _____.

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.
These elements were available or furnished to this Authority in the following language _____ which is:

☐ the language of a translation furnished for the purposes of international search (under Rule23.1(b)).

☐ the language of publication of the international application (under Rule 48.3(b)).

☐ the language of the translation furnished for the purposes of international preliminary examination(under Rules 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the written opinion was drawn on the basis of the sequence listing:

☐ contained in the international application in printed form.

☐ filed together with the international application in computer readable form.

☐ furnished subsequently to this Authority in written form.

☐ furnished subsequently to this Authority in computer readable form.

☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.

☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. ☐ The amendments have resulted in the cancellation of:

☐ the description, pages NONE

☐ the claims, Nos. NONE

☐ the drawings, sheets/~~fig~~ NONE

5. ☐ This opinion has been drawn as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

* *Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this opinion as "originally filed."*

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III. Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

1. The question whether the claimed invention appears to be novel, to involve an inventive step (to be non-obvious), or to be industrially applicable have not been examined in respect of:

☐ the entire international application,

☒ claims Nos. 1-3 and 5-12

because:

☐ the said international application, or the said claim Nos. ____ relate to the following subject matter which does not require international preliminary examination *(specify)*:

☐ the description, claims or drawings *(indicate particular elements below)* or said claims Nos. ____ are so unclear that no meaningful opinion could be formed *(specify)*:

☐ the claims, or said claims Nos. ____ are so inadequately supported by the description that no meaningful opinion could be formed.

☒ no international search report has been established for said claims Nos. 1-3 and 5-12.

2. A written opinion cannot be drawn due to the failure of the nucleotide and/or amino acid sequence listing to comply with the standard provided for in Annex C of the Administrative Instructions:

☐ the written form has not been furnished or does not comply with the standard.

☐ the computer readable form has not been furnished or does not comply with the standard.

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V. Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. STATEMENT

Novelty (N)	Claims 4	YES
	Claims NONE	NO
Inventive Step (IS)	Claims 4	YES
	Claims NONE	NO
Industrial Applicability (IA)	Claims 4	YES
	Claims NONE	NO

2. CITATIONS AND EXPLANATIONS

Claim 4 meets the criteria set out in PCT Article 33(2)-(3), because the prior art does not teach or fairly suggest the first compound of claim 4.

Claim 4 meets the criteria set out in PCT Article 33(4), and thus has industrial applicability because the subject matter claimed can be made or used in industry.

Supplemental Box
(To be used when the space in any of the preceding boxes is not sufficient)

TIME LIMIT:
The time limit set for response to a Written Opinion may not be extended. 37 CFR 1.484(d). Any response received after the expiration of the time limit set in the Written Opinion will not be considered in preparing the International Preliminary Examination Report.